



TOWN OF EASTHAM

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EASTHAM ZONING BOARD OF APPEALS MEETING MINUTES

Earle Mountain Room
March 4, 2021, 5:00 pm

ZBA members present: Edward Schneiderhan, Brian Ridgeway, Gay Craig, Joanne Verlinden, Robert Bruns, Robert Sheldon (via videoconference)
ZBA members absent: None
Staff present: Paul Lagg, Town Planner (via videoconference)

ZBA chair Ed Schneiderhan opened the meeting at 5:00 pm, explained new temporary meeting protocols and stated the meeting was being recorded.

Case No. ZBA2021-2 – 50 Ellis Road, Map 22, Parcel 16. Jay Kenney and Rosaleen Doherty (Owners) seek a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-law Sections IX.A (lot size), IX.B (setbacks) and VI.C (non-conforming uses) to demolish the pre-existing non-conforming dwelling and construct a new dwelling with non-conformity to setbacks on a non-conforming lot. Vote may be taken.

Seated on this case: Schneiderhan, Ridgeway, Verlinden, Bruns, Craig

Lester Murphy, Matt Farrell, William Ruhl, Jay Kenney and Rosaleen Doherty were present. Mr. Murphy described the proposal, explaining the structure would be less non-conforming to setbacks and would meet flood zone building code requirements. The project had already received Conservation Commission, Board of Health and Planning Board approvals. Ms. Doherty described the history of flooding at the property and in the neighborhood. Walter Sebastian, 70 Ellis Road elaborated on the flood history and voiced his support for the proposal. The board members asked questions to clarify the lot size, septic system, and mean tide level. There were no other comments from the Board or from the public.

Ms. Craig read the proposed **findings of fact**:

1. The property is located at 50 Ellis Road (Map 22, Parcel 16) and is located in District A (Residential).
2. The applicant has applied for a Special Permit pursuant to M.G.L. c. 40A s. 6 and Eastham Zoning By-law Sections IX.A (lot size), IX.B (setbacks) and VI.C (non-conforming uses) to demolish the pre-existing nonconforming dwelling and construct a new dwelling with non-conformity to setbacks on a nonconforming lot.
3. The lot size is pre-existing non-conforming at 7,968 sf.
4. The proposed dwelling is a permitted use within the residential zoning district. The lot is pre-existing non-conforming at 7,968 sf (minimum 40,000 sf required). The existing structure is non-conforming to side and rear yard setbacks. The proposed structure will remain non-conforming to the north lot line (12' where 25' is required) and to the south lot line (14.8' where 25' is required) and to the east lot line (19.9' where 25' is required). Street setbacks will remain compliant at 59.5 feet where 30 feet is required. The structure will be elevated 8

feet above the existing grade on pilings to comply with the flood zone construction requirements. Max building height will be compliant (29' where 30' is the limit).

5. After an evaluation of all the evidence presented, the proposed use will not be substantially more detrimental to the established or future character of the neighborhood or the Town and the structure involved will be in harmony with the general purpose and intent of the Zoning By-law and zoning district. The dimensional non-conformities will be improved, increasing the distance of the proposed dwelling from the north, south and east property lines. The site contains ample screening along the north and south property lines. Additional plantings are proposed per conditions of the Conservation Commission's approved Order of Conditions.
6. The proposal will not have a negative impact on traffic flow and/or safety. No changes to the existing driveway are proposed. No turn around space within the site exists or is proposed due to the small lot size and limited development space. However, Ellis Road is a low volume road utilized primarily by neighborhood residents. There is no public water access on Ellis Road beyond the boat ramp adjacent to the Goose Hummock shop.
7. The proposal will not have a negative impact on the visual character of the neighborhood. The visual impact from the street will be minimal. The elevated building will create better sight views from the street through to Town Cove. The street-facing side of the structure features traditional shingling with minimal windows, which will not adversely impact the visual character of the neighborhood.
8. The proposal does have adequate methods of sewage disposal, sources of potable water and site drainage. The property will be connected to the municipal water system. A condition of approval will require review by the Eastham Health Department prior to the issue of a building permit.
9. The proposal does provide adequate protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies. Any negative impacts to the adjacent resource areas will be mitigated by the Order of Conditions approved by the Eastham Conservation Commission on 12/14/20.
10. The proposal does provide adequate provision for utilities and other necessary or desirable public services. No issues related to the current or proposed utilities have been identified. The site will be connected to the municipal water system.
11. The proposal does provide adequate protection from degradation and alteration of the natural environment. The entire site is located within the FEMA flood zone and portions of the site are located within the wetland resource area and within the 100 foot buffer to the resource area. Elevation of the structure will protect it from the impacts of storm surge and allow the surrounding resource areas to retain their natural and beneficial functions. The project has been approved by the Eastham Conservation Commission and has an Order of Conditions requiring sediment and erosion control and mitigation plantings bordering the adjacent wetlands along Town Cove.
12. Artificial light, noise, litter, odor or other sources of nuisance or inconvenience will be adequately controlled. Conditions controlling exterior lighting will be added to the Special Permit. No other relevant issues were identified.
13. One abutter appeared in favor of the proposal and one letter was received in favor of the proposal.

A **MOTION** by Ed Schneiderhan to approve the findings of fact as stated, **seconded** by Brian Ridgeway.

In favor: Schneiderhan, Craig, Bruns, Ridgeway, Verlinden

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Mr. Bruns read the **conditions**:

1. No building permit shall be issued until the application complies with all pertinent sections of the Town of Eastham Zoning By-Law.
2. The applicant shall obtain a building permit from the Eastham Building Department prior to the start of construction.
3. The applicant shall verify bedroom count and septic design for adequacy with the approved plan with Eastham Health Department and if necessary, shall obtain Board of Health approval prior to the issue of a building permit.
4. All exterior lighting shall be down shielded to prevent light spill and nuisances to adjacent properties.
5. The applicant is responsible for providing building plans to the Eastham Building and Fire Departments. Plans shall contain information on construction methods and materials sufficient to conduct a full code compliance review.
6. Plan reviews conducted by town staff as part of this site plan approval have been conducted for conformance with applicable sections of the zoning bylaw and for adequacy of the site for public safety access and environmental impacts. Additional plan review for health and safety code compliance will be required and may result in changes to the approved plans. Any changes to the proposed site plan dated 11/6/20 rev. 12/15/20 or the proposed building plans dated 2/10/20 except those that are de minimis must be reviewed by the Zoning Board. If the Board finds a change to be substantial, re-notice is necessary for a new hearing.

A **MOTION** by Ed Schneiderhan to approve the conditions as stated, **seconded** by Gay Craig.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Ridgeway

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

A **MOTION** by Bob Bruns to **GRANT A SPECIAL PERMIT** for Case No. ZBA2021-2 to demolish the pre-existing non-conforming dwelling and construct a new dwelling with non-conformity to setbacks on a non-conforming lot, **seconded** by Gay Craig.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Ridgeway

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Minutes

A **MOTION** by Ed Schneiderhan to approve the minutes of January 7, 2021, **seconded** by Brian Ridgeway.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Ridgeway

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Other business

Ms. Verlinden suggested the Board vote on final revisions to the Mullin Rule and de minimis change language in the ZBA Rules and Regulations. A **MOTION** by Ed Schneiderhan to approve the Rules and Regulations as proposed 3/4/21, **seconded** by Bob Bruns.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Ridgeway

Opposed: None

The VOTE: 5-0

Motion passed – Unanimous

Mr. Schneiderhan introduced Art Autorino as the new Select Board liaison to the Zoning Board.

Adjournment

A **MOTION** by Brian Ridgeway to adjourn the hearing, **seconded** by Ed Schneiderhan.

In favor: Schneiderhan, Craig, Verlinden, Bruns, Ridgeway, Sheldon

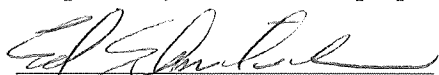
Opposed: None

The VOTE: 6-0

Motion passed – Unanimous

The meeting adjourned at 5:45 pm.

Respectfully submitted as prepared by Debbie Cohen

A handwritten signature in black ink, appearing to read 'Ed Schneiderhan', written over a horizontal line.

Ed Schneiderhan, Chairman
Zoning Board of Appeals